

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.usplo.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/909,265	07/19/2001	Anthony Vernon Walker Smith	15-979	9891	
32498 7	590 05/17/2006	EXAMINER			
CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC			LI, SHI K		
ATTN: JOHN P.O. BOX 199:			ART UNIT	PAPER NUMBER	
VIENNA, VA 22183			2613		
		DATE MAILED, 05/17/2006			

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action						
Before	the Filing of an Appeal Brief					

Application No.	Applicant(s)
09/909,265	SMITH ET AL.
Examiner	Art Unit
Shi K. Li	2613

	LAGIIIIIGI	Altonic					
	Shi K. Li	2613					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address							
THE REPLY FILED <u>05 May 2006</u> FAILS TO PLACE THIS APPL	LICATION IN CONDITION FOR AL	LOWANCE.					
1. The reply was filed after a final rejection, but prior to or on this application, applicant must timely file one of the follow places the application in condition for allowance; (2) a Not a Request for Continued Examination (RCE) in compliance time periods:	the same day as filing a Notice of ving replies: (1) an amendment, aff tice of Appeal (with appeal fee) in c	Appeal. To avoid aba idavit, or other evider compliance with 37 C	nce, which FR 41.31; or (3)				
a) The period for reply expires <u>3</u> months from the mailing date							
b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. I no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.							
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).							
Extensions of time may be obtained under 37 CFR 1.136(a). The date have been filed is the date for purposes of determining the period of extunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL	tension and the corresponding amount shortened statutory period for reply origing than three months after the mailing da	of the fee. The approprinally set in the final Offi	ate extension fee ce action; or (2) as				
2. ☐ The Notice of Appeal was filed on A brief in comp	liance with 37 CEP 41 37 must be	filed within two month	o of the date of				
filing the Notice of Appeal (37 CFR 41.37(a)), or any exter a Notice of Appeal has been filed, any reply must be filed	nsion thereof (37 CFR 41.37(e)), to	avoid dismissal of th	e appeal. Since				
AMENDMENTS							
3. Interproposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below);							
(b) They raise the issue of new matter (see NOTE below		00.0,,					
(c) They are not deemed to place the application in bett appeal; and/or	ter form for appeal by materially re-	ducing or simplifying	the issues for				
(d) ☐ They present additional claims without canceling a c	corresponding number of finally rejo	ected claims.					
NOTE: (See 37 CFR 1.116 and 41.33(a)).							
 The amendments are not in compliance with 37 CFR 1.12 Applicant's reply has overcome the following rejection(s): 		mpliant Amendment	(PTOL-324).				
6. ☐ Newly proposed or amended claim(s) would be all		timely filed amendme	nt canceling the				
non-allowable claim(s).			_				
7. For purposes of appeal, the proposed amendment(s): a) how the new or amended claims would be rejected is proven the status of the claim(s) is (or will be) as follows:	ان المن المن المن المن المن المن المن ال	i de entered and an e	explanation of				
The status of the claim(s) is (or will be) as follows: Claim(s) allowed:							
Claim(s) objected to:							
Claim(s) rejected: <u>1-37</u> . Claim(s) withdrawn from consideration:							
AFFIDAVIT OR OTHER EVIDENCE							
B. The affidavit or other evidence filed after a final action, but because applicant failed to provide a showing of good and was not earlier presented. See 37 CFR 1.116(e).	t before or on the date of filing a No d sufficient reasons why the affidav	otice of Appeal will <u>no</u> it or other evidence is	t be entered necessary and				
The affidavit or other evidence filed after the date of filing a entered because the affidavit or other evidence failed to or showing a good and sufficient reasons why it is necessary	vercome all rejections under appea	al and/or appellant fai	ls to provide a				
10. ☐ The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER	n of the status of the claims after er	ntry is below or attach	ed.				
 The request for reconsideration has been considered but See Continuation Sheet. 	t does NOT place the application in	condition for allowar	nce because:				
2. Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).							
13.							

Application No. 09/909,265

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant argues that the present specification adequately describes the "with and without regeneration" feature of claim 1 and refers to page 14, lines 5-21; page15, lines 26-28, page 17, lines 1-31, and page 21, line23-page 22, line 2 as well as FIG. 5A. Page 14, lines 5-21 talk about protection. Nowhere does regenerator be mentioned there. Page 15, lines 16 teaches "with a regenerator ... or no regenerator". There is no single route that is with and without regenerator. Page 17, lines 1-31 teaches, in the first paragraph routes with one regenerator, two regenerators and three regenerators. In the second paragraph, it teaches that no sets with k=0 or 1 are possible. That is, routes without a regenerator are not possible. The fourth paragraph teach 0-regenerator, i.e., without regenerator. Again, it does not teach "with and without regenerator". FIG. 5A shows a route 22 which has no regenerator. However, it is marked with a 'X' which means a path that is not viable. Again, no single path in FIG. 5A is "with and without regenerator".

The Applicant argues on page 13 that Kim teaches single route may be created using different vectors at another, later point in time, this is not akin to the creation of a plurality of routes at any moment in time as in the present invention. However, nowhere does the claim language include the phrase "at any moment in time".

The Applicant argues that one of ordinary skill in the art would not equate "fragment vectors" with "routes" as the Examiner appears to have done. The Examiner states in the Flnal Office action "Kim uses a fragment vector h=(h1,h2,...,hk) to denote a route". Kim can be considered as one of ordinary skill in the art.

The Applicant argues that Kim does not disclose or suggest the method of calims 34 and 35. The Examiner disagrees. Kim et al. teaches a method for establishing a connection in a WDM network. Kim et al. teaches connection request in p. 26, right col., first paragraph. Kim et al. teaches in FIG. 1 a path which is equivalent to a "link path" of instant application. By placing regenerators in different nodes as taught in page 26, left col., Kim et al. teaches a plurality of routes equivalent to "viable regenerator paths" as defined by the instant specification. Kim et al. then teaches to use dynamic programming to compute cost of viable regenerator paths. Finally, Kim et al. teaches to choose the path with minimal cost for the connection (see p. 27, Section 2.1, Problem Formulation Using Dynamic Programming). Regarding claim 34, Kim et al. teaches in Section 4 evaluation of various regenerator placement algorithms on a 25-node bidirection ring network. Kim et al. teaches maintaining status of regenerators and wavelengths (e.g., FIG. 3 shows the results of a network with 16 regenerators and 8 wavelengths). When a call request arrives, available resources are located for setup a lightpath. If resources are not available, the call is blocked. Regarding claim 35, Kim et al. teaches in Eq. (1) to evaluate BER for regenerator paths and engineer regenerator paths such that they all meet BER requirements.

Shi K. Li Patent Examiner